



U.S. Department of Energy  
Energy Efficiency and Renewable Energy

# U.S. Department of Energy ARRA Workshop Flow Down Provisions

**Tweedie Doe**  
**Project Officer, EECBG**

***Delaware Department of Natural Resources and Environmental Control***  
**Delaware Energy Office**  
**October 20, 2010**



# Flow Down Provisions Federal Funds Sub-Awards

These requirements include, but are not limited to the following:

- DOE Assistance Regulations, 10 CFR Part 600 at <http://ecfr.gpoaccess.gov>
- Appendix A, Generally Applicable Requirements, the National Policy Assurances to Be Incorporated as Award Terms in effect on date of award at [http://management.energy.gov/business\\_doe/1374.htm](http://management.energy.gov/business_doe/1374.htm) apply.
- 2 CFR 215, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110)."
- OMB Circular A-102, "Grants and Cooperative Agreements with State and Local Governments" Common Rules.
- OMB Circular A-21, "Cost Principles for Educational Institutions," OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," OMB Circular A-122, "Cost Principles for Non-Profit Organizations," or FAR at 48 CFR Part 31, "Contract Cost Principles and Procedures," for Profit Organizations, as applicable.
- OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
- Subawardee Application/proposal as approved by DOE.
- **Recipients are also advised that all contracts must include the provisions in 10 CFR 600.236, "Procurement", Section (i) "Contract Provisions", numbers 1-13.**



March 2010

**SUBGRANT FLOWDOWN PROVISIONS FOR EECBG FINANCIAL ASSISTANCE  
AWARDS**

**SPECIAL TERMS AND CONDITIONS**

**Table of Contents**

<b><u>Number</u></b>	<b><u>Subject</u></b>	<b><u>Page</u></b>
1.	RESOLUTION OF CONFLICTING CONDITIONS.....	3
2.	CEILING ON ADMINISTRATIVE COSTS .....	3
3.	LIMITATIONS ON USE OF FUNDS.....	3
4.	REIMBURSABLE INDIRECT COSTS AND FRINGE BENEFIT COSTS .....	4
5.	USE OF PROGRAM INCOME .....	4
6.	STATEMENT OF FEDERAL STEWARDSHIP .....	4
7.	SITE VISITS .....	4
8.	REPORTING REQUIREMENTS .....	5
9.	PUBLICATIONS .....	5
10.	FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS .....	6
11.	LOBBYING RESTRICTIONS.....	6
12.	NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS .....	6
13.	HISTORIC PRESERVATION .....	6
14.	WASTE STREAM .....	7
15.	DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS .....	7
16.	SUBGRANTS AND LOANS .....	7
17.	JUSTIFICATION OF BUDGET COSTS .....	8
18.	ADVANCE UNDERSTANDING CONCERNING PUBLICLY FINANCED ENERGY IMPROVEMENT PROGRAMS .....	9
19.	SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (May 2009).....	9
20.	REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT .....	14
21.	NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS .....	15
22.	REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS -- SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 .....	15
23.	REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS) -- SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 .....	18
24.	WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT .....	22
25.	RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS.....	22
26.	DAVIS-BACON ACT AND CONTRACT WORKHOURS AND SAFETY STANDARD ACT .....	23

- Limitations on Use of Funds
- Use of Program Income
- Statement of Federal Stewardship
- Publications
- Federal, State, Municipal Requirements
- Lobbying Restrictions
- NEPA Requirements
- Historic Preservation
- Waste Stream
- Subgrants and Loans
- ARRA Special Provisions
- Buy American
- DBA





# Limitations on Use of Funds

- a. By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, for gambling establishments, aquariums, zoos, golf courses or swimming pools.
- b. Local government and Indian tribe Recipients may not use more than 20 percent of the amounts provided or \$250,000, whichever is greater (EISA Sec 545 (b)(3)(B)), for the establishment of revolving loan funds.
- c. Local government and Indian tribe Recipients may not use more than 20 percent of the amounts provided or \$250,000, whichever is greater (EISA Sec 545 (b)(3)(C)), for subgrants to nongovernmental organizations for the purpose of assisting in the implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe.



# Use of Program Income

If you earn program income during the project period as a result of this award, you may add the program income to the funds committed to the award and used to further eligible project objectives.



# Statement of Federal Stewardship

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.



- a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.
- b. An acknowledgment of DOE support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

**Acknowledgment:** “This material is based upon work supported by the Department of Energy [National Nuclear Security Administration] [add name(s) of other agencies, if applicable] under Award Number(s) [enter the award number(s)].”

**Disclaimer:** “This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.”



# Federal, State, Municipal Requirements

You must obtain any required permits, ensure the safety and structural integrity of any repair, replacement, construction and/or alteration, and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.





# Lobbying Restrictions

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.



## NATIONAL ENVIRONMENTAL POLICY ACT

- You are restricted from taking any action using Federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing either a NEPA clearance or a final NEPA decision regarding this project.
- If you move forward with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of the final NEPA decision, you are doing so at risk of not receiving Federal funding and such costs may not be recognized as allowable cost share.
- If this award includes construction activities, you must submit an environmental evaluation report/evaluation notification form addressing NEPA issues prior to DOE initiating the NEPA process.



## Programmatic Agreement among DOE, DE, SHPO signed August 2010

### Exemptions from Section 106 Review

The Recipient shall not submit to the SHPO undertakings in accordance with Appendices A or B as they do not have the potential to cause effects on historic properties even when historic properties may be present.

Recipient will maintain file records with verification that undertakings were determined to be exemptions for a period of three (3) years from project completion and make them available for review if requested by DOE or the ACHP.

### Identification and Evaluation

The Recipient shall establish the Area of Potential Effect (APE) for all program undertakings defined in the DOE grant agreement for the State.

The Recipient shall complete the identification and evaluation of historic properties utilizing existing information including the National Register, state surveys, and county and local surveys.



The Recipient assures that it will create or obtain a waste management plan addressing waste generated by a proposed Project prior to the Project generating waste. This waste management plan will describe the Recipient's or subrecipient's plan to dispose of any sanitary or hazardous waste (e.g., construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos) generated as a result of the proposed Project.

The Recipient shall ensure that the Project is in compliance with all Federal, state and local regulations for waste disposal. The Recipient shall make the waste management plan and related documentation available to DOE on DOE's request (for example, during a post-award audit).





# Subgrants and Loans

The Recipient hereby warrants that it will ensure that all activities by sub-grantee(s) and loan recipients to accomplish the approved Project Description or Statement of Project Objectives are eligible activities under 42 U.S.C. 171534(1)-(13).

State recipients hereby warrant that they will ensure that all activities by sub-grantee(s) and loan recipients pursuant to 42 U.S.C. 17155(c)(1)(A) to accomplish the approved Project Description or Statement of Project objects are eligible activities under 42 U.S.C. 171534(3)-(13).



## **SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

- A. Flow Down Requirement: *include special terms and conditions in any subaward*
- B. Segregation of Costs: *segregate obligations and expenditures related to funding under the Recovery Act*
- C. Prohibition on Use of Funds: *no gambling establishment, aquarium, zoo, golf course, or swimming pool*
- D. Access to Records: *inspector general authorized to examine records and interview personnel*
- E. Publication: *identify protected data*
- F. Protecting State and Local Government and Contractor Whistleblowers
- G. Reserved
- H. False Claims Act
- I. Information in Support of Recovery Act Reporting
- J. Availability of Funds: *until 36 months after the award date to Prime recipient*
- K. Additional Funding Distribution and Assurance of Appropriate Use of Funds
- L. Certifications



# Reporting and Registration Requirements

## REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT

- a. This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.
- b. The reports are due no later than ten calendar days after each calendar quarter in which the Recipient receives the assistance award funded in whole or in part by the Recovery Act.
- c. Recipients and their first-tier subrecipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.
- d. The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.



## **REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS – SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

- [http://www1.eere.energy.gov/recovery/buy\\_american\\_provision.html](http://www1.eere.energy.gov/recovery/buy_american_provision.html)
- For construction, alteration, or repair activity on a public building or public works, all iron, steel and manufactured goods to be incorporated into building/public works must be produced in the U.S.
- 3 Exceptions: Non-availability; Unreasonable costs; Inconsistent with the public interest.
- Grantees are required to flow down the Buy American requirements to subrecipients, and in any subawards or subcontracts.
- Grantees, sub-recipients and subawardees may ask contractors and vendors for letters of certification.





- Laborers and mechanics paid not less than once a week, at rates not less than those in the wage determination of the Secretary of Labor
- Recipient Responsibilities for Davis Bacon Act
  - Obtain, maintain, and monitor all DBA certified payroll records;
  - Review all DBA certified payroll records for compliance with DBA requirements, including applicable DOL wage determinations;
  - Notify DOE of any non-compliance with DBA requirements by Subrecipients or Contractors at any tier;
  - Address any Subrecipient and any Contractor DBA non-compliance issues;
  - Provide DOE with detailed information regarding the resolution of any DBA non-compliance issues;
  - Perform audit services as necessary to ensure compliance by Subrecipients and Contractors with DBA requirements and as requested by the Contracting Officer.
- Prevailing wage rates determined by the Secretary of Labor at <http://www.wdol.gov/>



1. **JOBS CREATED:** The potential for the rapid development of positive job numbers was the PRIMARY motivating factor in the development of the Recovery Act.
2. **PROJECTED BENEFITS/ AUDIT RESULTS:** Preliminary audits connected to many grants can shed light on potential energy savings and future project details.
3. **COMMUNITY INITIATIVE:**  
Are communities aggressively implementing their projects?  
Collaboration with other local/regional government or non-profits?
4. **INNOVATION/SUSTAINABILITY:**  
Is Grantee using the EECBG funds as a catalyst to completely change the way the community utilizes energy resources?  
Is Grantee reducing energy usage, or will they reduce energy use WHILE increasing the use of renewable sources of energy?  
Is EECBG funded project going to pay off for years down the road?



- Media updates/ press releases/ fact sheets
- Events for senior DOE/ White House staff
- Interview material/ press pitches
- Energy Empowers profiles
- Best practices materials
- Congressional hearings/responses
- Developing state/regional EECBG impact snapshots



Energy Empowers | Home - Windows Internet Explorer provided by U.S. DOE Golden Field Office

http://www.energyempowers.gov/

File Edit View Favorites Tools Help

★ Favorites | ★ Free Hotmail | Web Slice Gallery

Energy Empowers | Home

DEPARTMENT OF ENERGY ENERGY EFFICIENCY & RENEWABLE ENERGY

ABOUT US SHARE YOUR STORY SEARCH

## ENERGY EMPOWERS

the nation's clean energy stories



### 100 Recovery Act Projects That Are Changing America



#### Energy Empowers series: VP 100

NEWSROOM - One-third of the Vice President's 100 top Recovery Act projects are energy related. Read how these investments are creating jobs and changing how we use energy.

READ MORE »

1 2 3 4

#### Stay Connected

Get Energy Empowers Updates

E-mail Address  Submit

Select RSS Category  

#### Stories by State

Select State

[VIEW U.S. MAP](#)

#### Recent Stories



##### Energy Empowers water cooler: solar maps and Googling 'wind'

Find out what the Energy Empowers team is talking about this week...

WIND | STEPHEN GRAFF | 10/15/2010



##### From salesman to CEO: A 45-year path to energy-efficient buns

Ohio baking company installs energy-efficient oven, retains jobs...

SEP | STEPHEN GRAFF | 10/15/2010



##### Solar and the City: online map to show NYC's solar potential

Tool will enable people to determine solar



##### Holographic technology could increase solar efficiency

Luminit's technology bends and redirects

#### Energy Empowers Blog Ticker

Get the stories you want automatically delivered to your site

[click here](#)

#### Top Recovery Act Projects



Internet 100%



**[www.energyempowers.gov](http://www.energyempowers.gov)**

**Chris Galm**

Marketing & Communications Specialist

202-287-1725 (office)

202-215-6804 (cell)

**[Christopher.Galm@ee.doe.gov](mailto:Christopher.Galm@ee.doe.gov)**



- EECBG Home Page

<http://www1.eere.energy.gov/wip/eecbg.html>

- Program Guidance Page

<http://www1.eere.energy.gov/wip/guidance.html>

- Includes EECBG, State Energy Program and Weatherization Program Guidance

- Technical Assistance: Request online or via phone

- <http://www1.eere.energy.gov/wip/solutioncenter/>

- 1-877-EERE-TAP (1-877-337-3827)

- Success Stories: Energy Empowers

[www.energyempowers.gov](http://www.energyempowers.gov)



Tweedie Doe  
Project Officer, EECBG  
U.S. DOE

[tweedie.doe@go.doe.gov](mailto:tweedie.doe@go.doe.gov)  
720-356-1617